



TO: Boards of Assessors
FROM: Marilyn H. Browne, Chief, Bureau of Local Assessment
DATE: May 15, 2008
TOPIC: CERTIFIED LANDLINE TELEPHONE & TELEGRAPH VALUATIONS
FISCAL YEAR 2009

The Commissioner of Revenue has determined and does hereby certify the full and fair cash valuation of taxable telephone and telegraph machinery, poles, wires and underground conduits, wires and pipes of the centrally valued telephone and telegraph companies, as of January 1, 2008. These valuations are certified for fiscal year 2009 under the authority of G.L. c. 59, § 39. The property owner or the board of assessors must appeal the valuations to the Appellate Tax Board (ATB) on or before June 15, 2008.

Important Notice Regarding Cellular/Mobile Telecommunications Providers (Wireless)

On April 28, 2008 the Supreme Judicial Court affirmed the decision of the Appellate Tax Board that Bell Atlantic Mobile of Massachusetts (doing business as Verizon Wireless), a wireless telecommunications carrier, was not a telephone or telegraph company under G. L. c. 59, § 39. [Bell Atlantic Mobile of Massachusetts Corporation, Ltd v. Commissioner of Revenue](#), 451 Mass. 280 (2008). As a result, Bell Atlantic Mobile's telecommunications personal property should not have been centrally valued by the Commissioner. The decision leaves wireless telecommunications companies subject to property tax valuation by local boards of assessors. Consequently, cellular/mobile wireless companies are not being centrally valued for FY2009. However, in an effort to assist assessors in this transition year, the Commissioner will release advisory valuation and new growth data by June 15, 2008. Community specific information will be sent to each assessor's office electronically and will not be posted to the Internet. Communities in locally valuing wireless providers should use generally accepted mass appraisal methods and not simply accept a proposed value given by a wireless provider.

Assessors must reclassify all personal property of wireless companies to the appropriate class based on form of legal ownership, as non-utility entities. A Form of List (State Tax Form 2) and the methodology documenting the proposed valuation for each locally valued wireless carrier must be sent to the Bureau of Local Assessment for review during certification and when the community submits its new growth calculations for FY2009.

Landline Providers

Taxable Property

Telephone and telegraph **corporations** have been valued by the Commissioner on all poles, wires, underground conduits, wires and pipes on public or private property, and electric generators. G.L. c. 59, § 39; G.L. c. 59, § 5, cl. 16(1); G.L. c. 59, § 18(First and Fifth). See March 3, 2008 Order in [Verizon New England Consolidated Cases](#), ATB Docket No. C273560, ruling that poles and wires of incorporated telephone and telegraph companies over public ways are taxable under G.L. c. 59, § 18, First. **Partnerships, trusts and limited liability companies (LLCs)** have been valued on all poles, wires, underground conduits, wires and pipes on public or private property, and all machinery used to provide telephone or telegraph service (including switching and routing equipment). G.L. c. 59, § 39; G.L. c. 59, § 18, First and Sixth; G.L. c. 59, § 5, cl. 16(2); [RCN-BecoCom, LLC v. Commissioner of Revenue](#), 443 Mass. 198 (2005). Telephone and telegraph company valuations now include any construction

work in progress and all other taxable property in place but not in service (including unlit or dark fiber and dark cable). See March 13, 2008 Decision in [MCI Consolidated Central Valuation Appeals: Boston & Newton](#), ATB Docket No. C269462. Additionally, partnerships, trusts and LLCs are subject to valuation and assessment locally on all other taxable non-telephone personal property. Therefore, a Form of List must be filed in all communities where such other personal property is located. (See the posted list of *Centrally Valued* telephone companies to identify these companies.)

Overlay Account Provisions – FY2009

It is anticipated that the Verizon New England Consolidated Cases will be appealed after the valuation portion of the bifurcated trial (scheduled for October 2008) concludes and a decision is issued. Also, it is our understanding that there will be an appeal of the ATB Decision in the MCI Consolidated Central Valuations Appeals: Boston & Newton. Consequently, assessors must make adequate provisions in their Overlay Account to cover the value of poles and wires erected upon public ways and construction work in progress (CWIP category also includes property owned but not necessarily in service).

In order to assist assessors to adequately know their potential liability as a result of these anticipated cases the Commissioner is providing assessors with the dollar value of poles and wires over public ways as well as CWIP. That data is provided on our website in addition to the traditional telephone and telegraph valuation numbers we have provided in the past.

Company Local Filing Requirements

With respect to **local filing requirements**, telephone and telegraph companies organized as LLCs that elect to be treated as corporations for federal income tax purposes, and single member LLCs that elect to be treated as disregarded entities for federal income tax purposes, whose single members are S corporations, are treated as business corporations. G.L. c. 63, § 30(1) and (2); [Technical Information Release \(TIR\) 05-04](#). As such, except for the centrally valued telephone and telegraph property, they are taxable only on machinery used in the conduct of business. This may include dedicated cable TV and Internet access machinery of bundled carriers, but all property used for telephone service and also for cable TV and/or Internet access should have been reported centrally and valued as part of this certification. For other LLCs, partnerships and trusts, all non-telephone machinery, as well as furniture and effects, equipment and other non-machinery items will be subject to valuation and assessment locally.

DOR Will Provide Additional Data

This year, for the first time, the Department will post additional data to the Internet for centrally valued landline companies. Companies are required to report their personal property to DOR using any of 23 Federal Communications Categories (FCC) categories. We will post company totals by reported FCC categories for each community. This data is expected to be made available by the end of May 2008 and can be accessed through the existing pivot table that provides telephone and telegraph values on our [website](#).

Individual Telephone and Telegraph Company Issues

The following describes significant changes for specific companies from the prior valuation year:

1. *AT&T Communications of New England, Inc.* transferred all assets to *AT&T Corporation* on November 9, 2007.
2. *Level 3 Communications, LLC* acquired *Broadwing Communications* on January 3, 2007. Broadwing's assets were previously reported locally; therefore, only 2007 vintage items will be considered new growth.

3. *Qwest Communications Corporation* acquired OnFiber Communications as of October 31, 2007. OnFiber's assets are reported as having been retired or transferred to Qwest and reflected in their return for FY2009 and only 2007 vintage items will be considered new growth.
4. *Paetec Communications, Inc.* is a competitive local exchange carrier filing centrally for the first time based on machinery it owns in the City of Boston. It has one generator subject to central valuation.
5. *France Telecom Corporate Solutions, LLC* and *France Telecom Long Distance USA, LLC* have not been centrally valued for FY2009 based on a legal and factual analysis resulting in a determination that they are not telephone companies subject to central valuation. They should file local returns and be valued and assessed by local assessors. This primarily affects the communities of Tewksbury, Cambridge & Boston.

Centrally valued landline telephone company billing names and addresses as reported by the companies are posted on this website for your convenience. Also, we have provided a list of landline companies that filed state returns but were not centrally valued. These companies and all others not centrally valued should file and be valued locally. More information on cellular/mobile telecommunication providers will be given when we provide additional valuation and new growth data in mid-June 2009. Questions regarding valuations may be directed to Walter Sandoval Dusza at 617-626-4087 or John Gillet at 617-626-3605.